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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1870

Introduced by Assembly Member Lieber
(Principal coauthor: Assembly Member Montanez)
(Coauthors: Assembly Members Emmerson, Evans, Hancock,
Shirley Horton, Jones, Karnette, Koretz, Leno, Oropeza,
Pavley, and Saldana)

January 18, 2006

An act to amend Sections 44017, 44021, and 44062.1 of, and to add Section 44012.1 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1870, as amended, Lieber. Air pollution: motor vehicle inspection and maintenance.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The duty of enforcing and administering the program is vested in the Chief of the Bureau of Automotive Repair within the department. Existing law

prohibits the operation of a motor vehicle in a manner that results in the escape of excessive smoke, flame, gas, oil, or fuel residue.

This bill would require the Department of Consumer Affairs to incorporate a visible smoke test into the motor vehicle inspection and maintenance program by January 1, 2008, so that any visible smoke from the tailpipe or crankcase of a motor vehicle during an inspection would result in a failure of the test. The bill would provide that steam resulting from condensation by itself shall not lead to an inspection failure. The bill would authorize a motor vehicle owner who disputes the failure of a visible smoke test to seek resolution of the matter by contacting the state-designated referee. The bill would require the department, in consultation with the State Air Resources Board and interested parties, to adopt regulations to implement these provisions.

(2) Existing law establishes the Inspection and Maintenance Review Committee to analyze the effect of the improved inspection and maintenance program on motor vehicle emissions and air quality, as specified. Existing law requires the review committee to submit periodic written reports to the Legislature and the Governor on the performance of the program, including quantification of the reduction in emissions and improvement in air quality attributed to the program, and make recommendations on program improvements at least every 12 months.

This bill would require the review committee, on or before July 1, 2010, to include a discussion of the effectiveness of the visible smoke test component of the inspection and maintenance program in its periodic reports to the Legislature and the Governor, as specified.

(3) Existing law provides for a repair cost waiver for a vehicle that has been properly tested but does not meet the applicable emission standards, if it is determined that no adjustment or repair can be made that will reduce emissions from the inspected vehicle without exceeding specified repair cost limits.

This bill would require that no repair cost limit be imposed for a motor vehicle that has failed the visible smoke test, *except where a motor vehicle owned by a low-income person has failed the visible smoke test, as specified.*

(4) Existing law provides for a repair assistance program available to an individual whose maximum income level is 200 percent of the federal poverty level and is the owner of a motor vehicle that has failed a smog check inspection or received a notice to correct, as

specified, or an individual who has failed a smog check inspection and is directed to a test-only facility, as specified.

This bill would delete the provision allowing individuals who fail a smog check inspection and are directed to test-only facilities to qualify for the repair assistance program. ~~This~~ *The* bill would also specify the percentages of the total cost of repair that the department would be authorized to pay pursuant to the repair assistance program where a motor vehicle fails the visible smoke test. ~~The bill would require the department to pay the owner of a motor vehicle that fails the visible smoke test, who voluntarily elects to retire the vehicle, a minimum of \$1,500, as specified. The bill would also delete obsolete provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 44012.1 is added to the Health and
- 2 Safety Code, to read:
- 3 44012.1. (a) The department shall incorporate a visible
- 4 smoke test into the motor vehicle inspection *and maintenance*
- 5 program by January 1, 2008. Any visible smoke from the tailpipe
- 6 or crankcase of a motor vehicle during an inspection constitutes a
- 7 failure. Steam from condensation by itself shall not lead to an
- 8 inspection failure.
- 9 (b) If an owner of a motor vehicle disputes the failure of a
- 10 visible smoke test, the owner may seek resolution of the dispute
- 11 from the state-designated referee.
- 12 (c) The department, in consultation with the state board and
- 13 interested parties, shall adopt regulations to implement this
- 14 section.
- 15 (d) If the implementation of the visible smoke test required by
- 16 subdivision (a) requires modification of the Emission Inspection
- 17 System software or Vehicle Information Database, that
- 18 modification shall be performed as part of the ordinary, periodic
- 19 upgrade to these systems.
- 20 SEC. 2. Section 44017 of the Health and Safety Code is
- 21 amended to read:
- 22 44017. (a) Except as otherwise provided in this section or
- 23 Section 44017.1, a motor vehicle owner shall qualify for a repair

1 cost waiver only after expenditure of not less than four hundred
2 fifty dollars (\$450) for repairs, including parts and labor.

3 (b) The limit established pursuant to subdivision (a) shall not
4 become operative until the department issues a public notice
5 declaring that the program established pursuant to Section
6 44010.5 is operational in the relevant geographical areas of the
7 state, or until the date that testing in those geographic areas is
8 operative using loaded mode test equipment, as defined in this
9 article, whichever occurs first. Prior to that time, the following
10 cost limits shall remain in effect:

11 (1) For motor vehicles of 1971 and earlier model years, fifty
12 dollars (\$50).

13 (2) For motor vehicles of 1972 to 1974, inclusive, model
14 years, ninety dollars (\$90).

15 (3) For motor vehicles of 1975 to 1979, inclusive, model
16 years, one hundred twenty-five dollars (\$125).

17 (4) For motor vehicles of 1980 to 1989, inclusive, model
18 years, one hundred seventy-five dollars (\$175).

19 (5) For motor vehicles of 1990 to 1995, inclusive, model
20 years, three hundred dollars (\$300).

21 (6) For motor vehicles of 1996 and later model years, four
22 hundred fifty dollars (\$450).

23 (c) The department shall periodically revise the repair cost
24 limits specified in subdivisions (a) and (b) in accordance with
25 changes in the Consumer Price Index, as published by the United
26 States Bureau of Labor Statistics.

27 (d) No repair cost limit shall be imposed in those cases where
28 emissions control equipment is missing or is partially or totally
29 inoperative as a result of being tampered with, or where a motor
30 vehicle has failed the visible smoke test created by the
31 department pursuant to Section 44012.1, *except where a motor*
32 *vehicle owned by a low-income person has failed the visible*
33 *smoke test, in which case the repair cost limit applicable*
34 *pursuant to subdivision (b) of Section 44017.1 shall apply.*

35 SEC. 3. Section 44021 of the Health and Safety Code is
36 amended to read:

37 44021. (a) (1) The Inspection and Maintenance Review
38 Committee is hereby created to analyze the effect of the
39 improved inspection and maintenance program established by
40 this chapter on motor vehicle emissions and air quality. The

1 functions of the review committee shall be advisory in nature and
2 primarily pertain to the gathering, analysis, and evaluation of
3 information.

4 (2) The members of the review committee shall receive no
5 compensation, but shall be reimbursed by the department for
6 their reasonable expenses in performing committee duties. The
7 state board and the department shall provide the review
8 committee with any necessary technical and clerical support in its
9 evaluation and study.

10 (3) (A) The review committee shall consist of 13 members,
11 nine to be appointed by the Governor, two by the Senate
12 Committee on Rules, and two by the Speaker of the Assembly.
13 All members shall be appointed to four-year terms, and the
14 Governor shall appoint from among his or her appointees the
15 chairperson of the review committee.

16 (B) The appointees of the Governor shall include an air
17 pollution control officer from an enhanced program
18 nonattainment area, three public members, an expert in air
19 quality, an economist, a social scientist, a representative of the
20 inspection and maintenance industry, and a representative of
21 stationary source emissions organizations.

22 (C) The appointees of the Senate Committee on Rules shall
23 include an environmental member with expertise in air quality,
24 and a representative from the inspection and maintenance
25 industry.

26 (D) The appointees of the Speaker of the Assembly shall
27 include an environmental member with expertise in air quality,
28 and a representative of a local law enforcement agency charged
29 with prosecuting violations of this chapter in an enhanced
30 program nonattainment area.

31 (4) In preparing its evaluations of program effectiveness as
32 provided in paragraph (1), the review committee shall consult
33 with the Department of the California Highway Patrol, the
34 Department of Motor Vehicles, and any other appropriate
35 agencies, as well as the department and the state board, shall
36 schedule and conduct periodic meetings in the performance of its
37 duties, and shall meet and consult with local, state, and federal
38 officials involved in the evaluation of motor vehicle inspection
39 and maintenance programs. At the request of the committee, the
40 department or the state board may, on behalf of the committee,

1 contract with independent entities to assist in the committee's
2 evaluations.

3 (b) The review committee shall submit periodic written reports
4 to the Legislature and the Governor on the performance of the
5 program and make recommendations on program improvements
6 at least every 12 months. The periodic reports shall quantify the
7 reduction in emissions and improvement in air quality attributed
8 to the program. On or before July 1, 2010, the review committee
9 shall, in consultation with the department and the state board,
10 include a discussion of the effectiveness of the visible smoke test
11 component of the inspection and maintenance program, including
12 the impact of the visible smoke test on the smog check industry
13 and vehicle owners who fail the test, and an estimate of the
14 reduction in particulate emissions, in the periodic reports
15 required by this subdivision. Any reports, other than those
16 required by this section, that the review committee is required to
17 provide pursuant to this chapter shall also be transmitted to the
18 Secretary for Environmental Protection and the Secretary for
19 State and Consumer Services.

20 (c) The review committee shall work closely with all
21 interested parties in preparing the information required by
22 subdivisions (a) and (b) and shall consider the reports provided
23 pursuant to subdivision (e). The review committee shall hold at
24 least one public hearing on its findings and recommendations
25 prior to submitting its reports. The reports shall include statutory
26 language to implement its recommendations, and shall
27 recommend the timeframe for making any changes to the
28 program. The review committee shall seek comments from the
29 department, the Department of Motor Vehicles, the Department
30 of the California Highway Patrol, and the state board prior to
31 submitting its reports, and those comments shall be published as
32 an appendix to the report.

33 (d) The review committee shall participate in the
34 demonstration program authorized by Section 44081.6, as
35 provided by that section.

36 (e) The state board, in cooperation with the department, shall
37 periodically submit reports to the review committee. The reports
38 shall include an assessment of the impact on emissions of
39 continuing the exemption from inspection of motor vehicles
40 newer than five years old; a comparison of the actual mass

1 emissions reductions being achieved by the enhanced program to
2 those required by the State Implementation Plan; and
3 recommendations to improve the effectiveness and
4 cost-effectiveness of the program, including specific
5 recommendations addressing any discrepancy between emissions
6 achieved and those in the State Implementation Plan. The first
7 report shall be submitted not later than January 1, 2000, and
8 reports shall be submitted triennially thereafter. In preparing the
9 reports, the state board shall use data collected during inspections
10 and repairs, and data collected using roadside measurements, and
11 may conduct additional testing, as determined to be necessary, to
12 accurately quantify the mass emissions reduced.

13 SEC. 4. Section 44062.1 of the Health and Safety Code is
14 amended to read:

15 44062.1. (a) The department shall offer a repair assistance
16 program through entities authorized to perform referee functions.

17 (b) (1) The repair assistance program shall be available to an
18 individual who has a maximum income level of 200 percent of
19 the federal poverty level, as published quarterly in the Federal
20 Register by the Department of Health and Human Services, and
21 who is either or both of the following:

22 (A) The owner of a motor vehicle that has failed a smog check
23 inspection.

24 (B) The owner of a motor vehicle who was issued a notice to
25 correct for an alleged violation of Section 27153 or 27153.5 of
26 the Vehicle Code involving that vehicle, if the vehicle subject to
27 that notice has failed a smog check inspection subsequent to
28 receiving the notice.

29 On and after January 1, 2009, the maximum income level
30 prescribed for this paragraph shall be set at 185 percent of the
31 federal poverty level, as published quarterly in the Federal
32 Register by the United States Department of Health and Human
33 Services.

34 (2) The department shall offer repair cost assistance, funded
35 by the High Polluter Repair or Removal Account in the Vehicle
36 Inspection and Repair Fund created pursuant to subdivision (a) of
37 Section 44091, to individuals based on the cost-effectiveness and
38 air quality benefit of the needed repair. Repair assistance may
39 include retesting costs and the costs of repairs to remedy the
40 violation of Section 27153 or 27153.5 of the Vehicle Code.

1 (3) An applicant for repair assistance shall file an application
2 on a form prescribed by the department and shall certify under
3 penalty of perjury that the applicant meets the applicable
4 eligibility standards.

5 (4) Verification of income eligibility shall be based on at least
6 one form of documentation, as determined by the department,
7 including, but not limited to, (A) an income tax return, (B) an
8 employment warrant, or (C) a form of public assistance
9 verification.

10 (c) The repair assistance program shall be funded by the High
11 Polluter Repair or Removal Account.

12 (d) Repairs to motor vehicles that fail smog check inspections
13 and are subsidized by the state through the program shall be
14 performed at a repair station licensed and certified pursuant to
15 Sections 44014 and 44014.2. Repair shall be based upon a
16 preapproved list of repairs for cost-effective emission reductions
17 or repairs to remedy a violation of Section 27153 or 27153.5 of
18 the Vehicle Code.

19 (e) The qualified low-income motor vehicle owner receiving
20 repair assistance pursuant to this section shall contribute a
21 copayment, as determined by the department as specified in
22 Section 44017.1, either in cash, or in emissions-related partial
23 repairs as verified by a test-only station pursuant to paragraph (2)
24 of subdivision (c) of Section 44015, or a combination thereof. If
25 the repair cost exceeds the applicable repair cost limit, the
26 department shall inform a motor vehicle owner of all options for
27 compliance at the time of testing and repair.

28 (f) The department may increase its contribution toward the
29 repair of a motor vehicle under this program in excess of the
30 amount authorized for the repair of a high-polluter pursuant to
31 paragraph (1) of subdivision (b) of Section 44094, if the
32 department determines that the expenditure is cost-effective.

33 (g) (1) For the repair of a motor vehicle that has failed the
34 visible smoke test component of a smog check inspection, the
35 department may ~~make a payment to the owner of~~ *pay* up to 90
36 percent of the total cost of repair, as determined by the
37 department, but the payment shall not exceed one thousand five
38 hundred dollars (\$1,500).

39 (2) If the total estimated cost of repair of a motor vehicle that
40 has failed the visible smoke test component of a smog check

1 inspection is greater than its fair market value, as determined by
2 the department, the department shall pay the owner of the motor
3 vehicle at least 50 percent, but not more than 90 percent, of the
4 total cost of repair, but in no case more than one thousand five
5 hundred dollars (\$1,500).

6 ~~(3) The department shall pay the owner of a motor vehicle that~~
7 ~~has failed the visible smoke test component of a smog check~~
8 ~~inspection and who voluntarily elects to retire the vehicle under~~
9 ~~the department's consumer assistance program, a minimum of~~
10 ~~one thousand five hundred dollars (\$1,500). The department may~~
11 ~~specify a greater amount based on the cost effectiveness and the~~
12 ~~air quality benefit of retiring the vehicle, as determined by the~~
13 ~~department.~~

14 (h) Notwithstanding paragraph (1) of subdivision (b), the
15 department may increase the maximum income level of a
16 low-income motor vehicle owner under this program from the
17 amount specified in this section, not to exceed 225 percent of the
18 federal poverty level, if the department determines that the
19 increase is capable of being supported within existing budget
20 allocations.

21 (i) The department shall collect data from the program to
22 provide information on how to improve the program. Data
23 collection shall include all of the following:

24 (1) The number of motor vehicle owners that are eligible for
25 repair assistance.

26 (2) The number of eligible motor vehicle owners that use
27 repair assistance funds.

28 (3) The potential for fraud.

29 (4) The average repair bills.

30 (5) The types of repairs being done.

31 (6) The amount of partial repairs done prior to receipt of repair
32 assistance.

33 (7) The emissions benefits of providing repair assistance.

34 (j) For purposes of this section, "low-income motor vehicle
35 owner" means a person whose income does not exceed 200
36 percent of the federal poverty level.

1		_____
2	CORRECTIONS:	
3	Text — Pages 7 and 9.	
4		_____